IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 741 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ANTHONY E M REBEIRO

Versus

UNITED INDIA INSURANCE COMPANY

Appearance:

1. Civil Revision Application No. 741 of 2001

MS PAURAMI B SHETH for Petitioner No. 1

MR HC RAVAL for Respondent no.3.

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 12/07/2001

ORAL JUDGEMENT

Heard Ms. Paurami Sheth learned advocate for the petitioner. Leave granted to the petitioner to delete respondent nos. 1,2 and 4. Mr. H.C.Raval learned advocate who is present in the Court is served with the advance copy of the petition.

2. Rule. Mr. H.C.Raval learned advocate waives service of rule on behalf of respondent no.3.

Petitioner has prayed to modify the impugned order dated 15.3.2001 as well as 16.1.2001.

3. That petitioner is awarded an aggregate amount of Rs. 1,22,000/- recoverable from respondent nos. 3 and 4 and Rs. 30,500/- from respondent nos. 1 and 2 in the proceedings of M.A.C.Petition No. 652 of 1989. That out of the said amount Rs. 1,12,259/- was ordered to be invested in the fixed deposit receipt no. 2664814 with Canara Bank, Mount Road, Chennai.

4. The petitioner made an Application No. 7 of 2001 in the proceedings of M.A.C.Petition No. 652 of 1989 with a prayer to curtail the period of 10 years in respect to investment to be made of Rs. 1,12,259/- with Canara Bank on the ground that petitioner is aged about 65 years and that wife of the petitioner is also almost of the same age and they have no other means of earning. Not only that, the petitioner has to undergo for operation for piles and wife of the petitioner has also to undergo for cataract operation. Under such circumstances, petitioner is in need of money and thereby, petitioner has prayed to liquidate the FDR of Rs. 1,12,259/- made with Canara Bank, Mount Road, Chennai for a period of 10 years and to pay the said amount to the petitioner.

That the Trial Court after hearing the parties directed the Canara Bank, Mount Road, Chennai to pay an amount of Rs. 20,000/- to the petitioner from the FDR no. 2664814 dated 12.10.1999 and did not pass any other order regarding curtailing the period of FDR. Hence, present civil revision application.

It has been submitted on behalf of petitioner that award of amount of Rs. 20,000/- is too meager to meet with the medical expenses for operation of piles of the petitioner and cataract operation of his wife. In view of the said fact looking to the age of the petitioner, the remaining amount should be invested for a shorter period.

4. It may be noted that none of the opponent of original M.A.C.Petition No. 652 of 1989 have filed any appeal against the final award and as such, it has become final. Mr. H.C.Raval learned advocate representing respondent no.3 has not controverted the statement made

on behalf of the petitioner and has not contested the prayer made in view of the submission urged.

5. In the facts and circumstances of the case, impugned order passed by M.A.C.Tribunal, Surendranagar dated 15.3.2001 below Exh.1 in Civil Misc. Application No. 7 of 2001 is hereby modified to the extent that Canara Bank, Mount Road, Chennai shall pay Rs.50,000/from the amount of FDR worth Rs. 1,12,259/- made vide no.2664814 date 12.10.1999 by premature encashment to the petitioner within a period of two weeks from the date of service of writ of this order and shall reinvest the remaining amount with accrued interest for the period of three years only in the FDR for senior citizens. Rule to that extent is made absolute. Direct service is permitted.

(A.K.Trivedi,J.)
(vipul)